

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, November 14, 2001, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Mary Bills, Jon Carlson, Steve Duvall, Linda Hunter, Gerry Krieser, Patte Newman, Greg Schwinn, Cecil Steward and Tommy Taylor; Kathleen Sellman, Ray Hill, Mike DeKalb, Jason Reynolds, Becky Horner, Brian Will, Tom Cajka, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Greg Schwinn called the meeting to order and requested a motion approving the minutes of the meeting held October 31, 2001. Newman moved approval, seconded by Carlson and carried 8-0: Bills, Carlson, Duvall, Krieser, Newman, Schwinn, Steward and Taylor voting 'yes'; Hunter abstaining.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

November 14, 2001

Members present: Bills, Carlson, Duvall, Hunter, Krieser, Newman, Schwinn, Steward and Taylor.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 3344; CHANGE OF ZONE NO. 3345; SPECIAL PERMIT NO. 1942; SPECIAL PERMIT NO. 1944; FINAL PLAT NO. 00035, FINIGAN RIDGE ADDITION; FINAL PLAT NO. 01012, WILMER'S 2ND ADDITION; FINAL PLAT NO. 01020, NORTH CREEK BUSINESS PARK ADDITION; COUNTY FINAL PLAT NO. 01029, POST ROCK PINES; STREET AND ALLEY VACATION NO. 01020; WAIVER OF DESIGN STANDARDS NO. 01019; and MISCELLANEOUS NO. 01011.**

Item No. 1.2, Change of Zone No. 3345; Item No. 1.4, Special Permit No. 1944; and Item No. 1.11, Miscellaneous No. 01011 were removed from the Consent Agenda and scheduled for separate public hearing.

Newman moved to approve the remaining Consent Agenda, seconded by Steward and carried 9-0: Bills, Carlson, Duvall, Hunter, Krieser, Newman, Schwinn, Steward and Taylor voting 'yes'.

Note: This is final action on Special Permit No. 1944; Finigan Ridge Addition Final Plat No. 00035; Wilmer's 2nd Addition Final Plat No. 01012; and North Creek Business Park Addition Final Plat No. 01020, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by Planning Commission.

CHANGE OF ZONE NO. 3345
FROM I-1 INDUSTRIAL TO H-4 GENERAL COMMERCIAL
ON PROPERTY GENERALLY LOCATED
AT NORTH 56TH STREET AND ARBOR ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 14, 2001

Members present: Krieser, Newman, Steward, Bills, Taylor, Duvall, Carlson, Hunter and Schwinn.

Staff recommendation: Approval.

This application was removed from the Consent Agenda and had separate public hearing.

Becky Horner of Planning staff submitted a request from the applicant to revise the application to a request from I-1 to H-3 (instead of H-4), and to defer the hearing until December 12, 2001, for readvertising and notification.

Duvall moved to defer with new public hearing and administrative action scheduled for December 12, 2001, seconded by Bills and carried 9-0: Krieser, Newman, Steward, Bills, Taylor, Duvall, Carlson, Hunter and Schwinn voting 'yes'.

There was no other public testimony.

MISCELLANEOUS NO. 01011
TO VACATE HAWTHORNE ADDITION,
GENERALLY LOCATED AT S.W. 27TH & MAPLE STREETS.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 14, 2001

Members present: Krieser, Newman, Steward, Bills, Taylor, Duvall, Carlson, Hunter and Schwinn.

Staff recommendation: Conditional Approval.

This application was removed from the Consent Agenda at the request of the applicant and had separate public hearing.

Proponents

Brian Carstens appeared on behalf of the applicant, Hartland Homes, Inc., who is concerned about the sale price the Real Estate Department has put upon the property. The current topography has some major drainageways making it basically unbuildable in the current lot and block configuration. Hartland Homes is in the final stages of submitting a new preliminary plat and community unit plan for the same property, thereby dedicating numerous streets, preserving a large tree mass on the east side of S.W. 27th, taking most of the access internally and providing stormwater detention and fixing the drainage problems. They are hopeful to do some “horse-trading” on right-of-way instead of paying for that right-of-way. Carstens wondered whether this should be deferred until the preliminary plat and community unit plan come forward.

There was no testimony in opposition.

Schwinn posed the question to staff as to whether this vacation should be deferred. Tom Cajka of Planning staff responded, indicating that there is dedicated right-of-way now. By this vacation, the city is saying that the city would retain ownership of that property and be paid for that right-of-way. When the developer comes in with a new plat, they would in turn have to dedicate new street rights-of-way.

Rick Peo, City Law Department, explained that the city was looking at being paid compensation as a mechanism to insure that new plat came forward. We did not want to vacate this plat and give away the city ownership of the streets. Typically, if a person comes back and replats, we would say it was an exchange of land. Peo believes it would be preferable that the plat vacation and the new subdivision come through the process simultaneously so that we would know what is happening. Typically, the City Council would not take action until the issue is resolved. It might be better to defer this vacation until the plat comes forward.

Response by the Applicant

Carstens agreed to deferral until the preliminary plat and community unit plan come forward.

Duvall made a motion to defer until the new preliminary plat and community unit plan come forward, seconded by Hunter and carried 9-0: Krieser, Newman, Steward, Bills, Taylor, Duvall, Carlson, Hunter and Schwinn voting ‘yes’.

SPECIAL PERMIT NO. 1944
FOR A 126' MONOPOLE WIRELESS COMMUNICATIONS FACILITY
ON PROPERTY GENERALLY LOCATED
AT NO. 67TH STREET AND SEWARD AVENUE.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 14, 2001

Members present: Krieser, Newman, Steward, Bills, Taylor, Duvall, Carlson, Hunter and Schwinn.

Staff recommendation: Conditional Approval.

This application was removed from the Consent Agenda at the request of Commissioner Carlson and had separate public hearing.

Proponents

Harvey Cooper appeared on behalf of the applicant. This is a request for a 126' monopole with 6' lightning rod at 67th & Seward Avenue. It will tie in with the other Cricket locations. Cooper showed the coverage areas as they currently exist without this site versus with the site. This will result in good coverage for the Havelock area. The tower will be located to the southwest of an existing building. There is industrial property and abandoned right-of-way in the area. There is I-1 zoning to the west which is vacant; 67th Street was never officially vacated but there is no street and it is grassy area that abuts a concrete drainageway. To the south is I-1 zoning and the bike trail. There are several other locations that were considered, all of which abut the residential areas. They also evaluated an existing Western Wireless tower, but that tower sways on a windy day and did not pass the structural analysis for collocation. Cricket also attempted to work out an arrangement with the owner of the Western Wireless tower to do a swap, but was unsuccessful.

Cooper clarified that the proposed tower will be collocatable. In fact, Nextel Partners has submitted a letter of intent to locate on this tower. It will be a three-carrier pole, with Cricket, Nextel and one more carrier.

Cooper reviewed the photo simulations and suggests that the monopole will actually clean up the site. He also showed photographs of the existing uses and condition of the area. There is effective screening to the residential areas by trees and the electrical business building.

Schwinn noted that this site is very close to Ballard Park and inquired whether Cricket had talked with the Parks & Recreation Department about possible location in the park. Cooper responded that the light poles in Ballard Park are too low at 65'. Cricket needs 120' height.

It would be double the size of the existing light poles in the park. Plus, Cooper pointed out that Ballard Park would be closer to the residential uses. Cricket also considered Havelock Park but it was determined that the pole would not be an appropriate use for the residential neighbors.

Carlson sought further discussion about replacing the existing Western Wireless tower a couple blocks away. Cooper indicated that the tower owner has been non-responsive. They found out that the person that was to respond is no longer there and they have been unable to get a response from anyone else. That tower pre-dates the ordinance requiring collocation.

There was no testimony in opposition.

Staff questions

Carlson inquired of staff as to the degree to which the city has any power to require cooperation and communication provider-to-provider. Brian Will of Planning staff stated that the ordinance now requires new poles to be collocatable. The problem here with the Western Wireless tower is that it was approved in 1995 prior to the current ordinance and was not required to be collocatable. Because of that, the city cannot require them to allow this carrier on.

Carlson then suggested that a new provider would be required to communicate. Will stated that it is a condition of the permit. Technically, the city has grounds to revoke a permit if they do not cooperate in the case where we have a carrier that meets all of the requirements. This permit will be required to accommodate additional carriers.

Steward sought to pursue the matter of city recourse where it is reported that the other tower sways and may have structural deficiency. Have we asked for any verification of the public safety issue? Will indicated that there has been no cause to investigate because that tower would have met the building code requirements when it was constructed. This carrier has declared that the Western Wireless tower is not structurally capable of accommodating a second carrier or their facilities. There is no cause for the city to become further involved. Steward wondered whether Building & Safety wouldn't be interested in the report and whether it was constructed in accordance with the approved plan. Will stated that he can let Building & Safety know, but he presumes it met the design criteria at that time.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

November 14, 2001

Duvall moved to approve the Planning staff recommendation of conditional approval, seconded by Steward and carried 9-0: Krieser, Newman, Steward, Bills, Taylor, Duvall, Carlson, Hunter and Schwinn voting 'yes'.

Note: This is final action, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by Planning Commission.

CHANGE OF ZONE NO. 3346

FROM I-1 INDUSTRIAL TO H-3 HIGHWAY COMMERCIAL

ON PROPERTY GENERALLY LOCATED

AT NORTH 1ST STREET AND CHARLESTON STREET.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 14, 2001

Members present: Krieser, Newman, Steward, Bills, Taylor, Duvall, Carlson, Hunter and Schwinn.

Staff recommendation: Deferral to allow further discussion with the applicant.

Jason Reynolds of Planning staff submitted a written request from the applicant for a two-week deferral in order to meet with the staff.

Carlson moved to defer with continued public hearing and administrative action scheduled for November 28, 2001, seconded by Hunter and carried 9-0: Krieser, Newman, Steward, Bills, Taylor, Duvall, Carlson, Hunter and Schwinn voting 'yes'.

There was no public testimony.

There being no further business, the meeting was adjourned at 1:35 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on November 28, 2001.